

**FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

JOANN WRIGHT HAYSBERT,

Plaintiff,

v.

Civil Action No.: 4:24-cv-00087

**OUTBACK STEAKHOUSE
OF FLORIDA, LLC, et al.,**

Defendants.

**PLAINTIFF'S OPPOSITION TO
DEFENDANT BLOOMIN' BRANDS, INC.'S MOTION TO DISMISS**

COMES NOW, Plaintiff, JoAnn Wright Haysbert, pro se, and files this Opposition to Plaintiff's Motion to Dismiss and Memorandum in Support stating as follows:

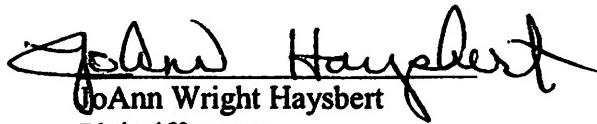
On July 24, 2024, Defendant Bloomin' Brands, Inc. filed a Motion to Dismiss and Memorandum in Support ("Motion" or "Motion to Dismiss"), under Federal Rule of Civil Procedure 12(b)(6) on the grounds that Plaintiff's Complaint failed to allege sufficient facts to establish that Bloomin' Brands, Inc. is a proper party to this litigation. See ECF Nos. 7, 8.

Bloomin' Brands' Motion is inappropriate because in granting Plaintiff's motion for voluntary dismissal in Haysbert v. Bloomin' Brands, Inc., No. 4:20-cv-00121-EWH-RJK ("*Haysbert I*"), at Defendants' request, the Court imposed multiple conditions, including that "if the case is refiled, it will be procedurally in the same position as the instant case." See ECF No. 357 at 2. Bloomin' Brands should therefore not be permitted to file a preliminary 12(b)(6) Motion to Dismiss that it could have filed in *Haysbert I*, but did not.

Nevertheless, for the sake of facilitating the efficient resolution of this matter, Plaintiff is simultaneously filing a Motion for Leave to File an Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), to address this particular issue, the granting of which would

render Bloomin' Brands, Inc.'s Motion moot. By doing so, however, Plaintiff does not intend to waive the argument that Bloomin' Brands' Motion to Dismiss is improper and, in the event that Defendants move to dismiss Plaintiff's forthcoming amended complaint, Plaintiff reserves the right to make that argument in full.

DATED: August 13, 2024


JoAnn Wright Haysbert
Plaintiff pro se
244 William R. Harvey Way
Hampton, VA 23669
Tel: (757) 913-9114

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News DIVISION

JOANN WRIGHT HAYSBERT

Plaintiff(s),

v.

Civil Action Number: 4:24-cv-00087

OUTBACK STEAKHOUSE OF FLORIDA, LLC

Defendant(s),

LOCAL RULE 83.1 (N) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared or assisted in the preparation of _____.
(Title of Document)

Name of *Pro Se* Party (Print or Type)

Signature of *Pro Se* Party

Executed on: _____ (Date)

OR

The following attorney(s) prepared or assisted me in preparation of _____
PLAINTIFF'S RESPONSE TO DEFENDANT
BLOOMIN' BRANDS, INC.'S MOTION TO DISMISS,
(Title of Document)

Mary T. Morgan

(Name of Attorney)

4646 Princess Anne Road, Unit 104, Virginia Beach, VA 23462

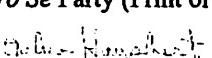
(Address of Attorney)

(757) 609-2702

(Telephone Number of Attorney)
Prepared, or assisted in the preparation of, this document.

JoAnn Wright Haysbert

(Name of *Pro Se* Party (Print or Type))



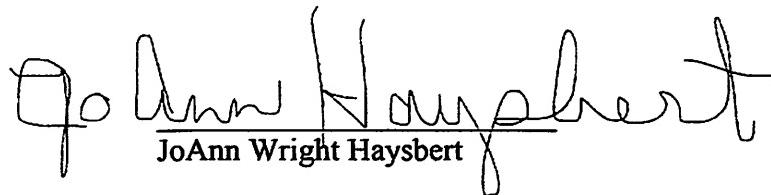
Signature of *Pro Se* Party

Executed on: August 13, 2024 (Date)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT BLOOMIN' BRANDS, INC.'S MOTION TO DISMISS was mailed this 13 day of August to:

John D. McGavin
McGavin, Boyce, Bardot, Thorsen & Katz, P.C.
9990 Fairfax Boulevard, Suite 400
Fairfax, Virginia 22030
Counsel for Defendants


JoAnn Wright Haysbert